

Notice of Allowability

Application No.

09/318,045

Examiner

Martin Lerner

Applicant(s)

NEUHAUSER ET AL.

Art Unit

2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 26 July 2004.
2. ☒ The allowed claim(s) is/are 1 to 4, 7, and 11 to 45.
3. ☒ The drawings filed on 16 April 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Applicants' argument that *Thomas et al.* fails to anticipate independent claims 1, 13, and 16 because the prior art does not disclose accumulating a first signal value of a first code symbol and a second signal value of a second code symbol, where a predetermined message symbol is represented by first and second code symbols with at least one code symbol representing a different one of the message symbols positioned between the first and second code symbols, is persuasive. Upon careful review of *Thomas et al.*, it is agreed that the prior art does not disclose or suggest accumulating, where there is a code symbol representing a different message symbol positioned between the first and second code symbols. In *Thomas et al.*, even assuming that a local tv station id and a commercial code (Figure 4) are a predetermined message symbol and a different one of the message symbols, respectively, first and second code symbols of the predetermined message symbol, e.g. segments 6 and 9 of a local tv station id, do not have any code symbols representing a commercial code, e.g. segments 15 to 18, positioned between segments 6 and 9. Thus, the prior art of record does not disclose accumulating interspersed code symbols of different message symbols.

Applicants' Specification, Pages 12 to 14, Figures 3A to 3C, discloses a redundant symbol sequence, where symbols S_1 , S_2 , S_3 , and S_4 are a repeating time sequence of symbols. Thus, repeating symbols S_1 are a plurality of code symbols

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representing a predetermined message, and repeating symbols S_2 are at least one code symbol representing a different one of the message symbols positioned in a time sequence between repeating symbols S_1 . The Specification, Pages 20 to 21, Figure 7, then says the symbol values are accumulated over time. Thus, Applicants' claimed invention is supported by the Specification.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin Lerner whose telephone number is (703) 308-9064. The examiner can normally be reached on 8:30 AM to 6:00 PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (703) 305-9645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'ML'.

ML
10/19/04

A handwritten signature in black ink, appearing to be 'Richmond Dorvil'.
RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER